

V. REMARKS

Claims 1-36 are pending in this application. By this amendment, claims 1, 8, 13, 15, 17, 18, 21, 23, 25, 27, 29 and 35 have been amended. Applicant is not conceding in this application that those claims are not patentable over the art cited by the Office, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the subject matter. Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, the specification is objected to. Applicant has amended the specification in accordance with the Office recommendations. Claims 15 and 17 are objected to for alleged informalities. Applicant has amended claims 15 and 17 in accordance with the Office's recommendations. Claims 1-36 are rejected under 35 U.S.C. §112 as allegedly being indefinite. Claims 8-11 and 13-25 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Claims 1-36 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Bansal (U.S. Patent Pub. No. 2003/0191823), hereafter "Bansal."

A. REJECTION OF CLAIM 1-36 UNDER 35 U.S.C. §112

The Office has asserted that claims 1-36 are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office objects to the terms "the command" and "the client" in claims 15, 25 and 29. Applicant

has amended claims 15, 25 and 29 to replace the terms with “the command” and “the client”, respectively. The Office further objects to the term “the server” in claims 18, 21, 32 and 35. Applicant has amended claims 18, 21, 32 and 32 to replace the term with “a server.” Applicant asserts that these amendments further clarify the invention. Accordingly, Applicant requests that the rejections be withdrawn.

The Office has still further objected to claims 1, 4-11, 13, 15, 17, 20, 23, 25, 27, 29, 31 and 34 and to claims 5 and 11 for including the trademark names OSGi and WIN32, respectively. Applicant respectfully submits that, contrary to the Office’s assertion, the inclusion of the objected to terms specify an environment in which the invention is intended to function and not simply a product name. To this extent, it is unclear to Applicant how the limitations of the claimed invention can be claimed without using these terms, as the invention is drawn, *inter alia*, to operations within, to, from and/or that include these specific operating environments. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

B. REJECTION OF CLAIMS 1-9 UNDER 35 U.S.C. §101

The Office has rejected claims 8-11 and 13-25 for allegedly being directed to non-statutory subject matter. Specifically, the Office asserts that the claimed invention does not produce a useful, concrete, and tangible result. Specifically, the Office objects to claim 13 for appearing to be a system of software alone. Applicant has amended claim 13 to include a processor and a memory. Applicant respectfully submits that this amendment comports with the Office’s interpretation of patentable subject matter.

Further, the Office states, with respect to claims 8 and 23, that the steps of “managing a life cycle...” fail to produce a concrete, tangible, and useful result. Initially, Applicant respectfully submits that the relevant section of the United States Code recites:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title. 35 U.S.C. §101.

To this extent, the code requires that the invention be “new and useful” and not that the result be “useful, concrete, and tangible” as asserted by the Office. The USPTO has chosen, in its Interim Guidelines, to use concreteness of the result and tangibility as factors in making a determination as to whether the invention is useful. However, the Guidelines themselves state that concreteness of the result and tangibility are not dispositive in and of themselves, but merely factors in determining whether the invention is useful.

As to whether the claimed invention is useful, the preamble of the claims themselves provide a use, to wit, “for enabling life cycle management of native applications using Open Service Gateway Initiative (OSGi) bundles.” This function involves a transformation, e.g., the installing of an OSGi bundle within an OSGi environment, the deployment of an OSGi bundle within a native environment, and/or the sending of data required to manage the native application. In addition, the migrating of the claimed invention performs a useful function in the art, e.g., the controlling of a native application that would not otherwise be able to be controlled via OSGi. To this extent, Applicant respectfully submits that the claimed invention is not only useful, but also produces a tangible and concrete result. As such, Applicant respectfully submits that the claimed invention is directed to statutory subject matter. Accordingly, Applicant requests that the rejection be withdrawn.

C. REJECTION OF CLAIMS 1-34 UNDER 35 U.S.C. §102(e)

With regard to the 35 U.S.C. §102(e) rejection over Bansal, Applicant asserts that Bansal does not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 8, 13, 23 and 27, Applicant submits that Bansal fails to teach deploying the OSGi bundle within a native environment of the client device that is separate from the OSGi environment. In support of its rejection, the Office cites a passage of Bansal that describes an active framework complaint service that “...is packaged in a bundle...so that it can be deployed in the hosting environment *offered by the present invention.*” Para. 0041, *emphasis added*. To this extent, the hosting environment of Bansal is not the native environment of the host machine, but rather a non-natural environment that is specifically designed for the active framework. This environment is further described as being “...a hosting environment for hosting the services, which can be installed, activated, configured, upgraded, downgraded, deactivated, uninstalled, etc. within this hosting environment.”

In contrast, the claimed invention includes “...deploying the OSGi bundle within a native environment of the client device that is separate from the OSGi environment.” Claim 1. As such, the native environment in which the OSGi bundle of the claimed invention is deployed is not a non-natural environment that is specifically designed for application, as is the hosting environment in Bansal, but rather is the native environment of the client device that is separate from the OSGi environment. Thus, the native environment as included in the claimed invention is not taught by the hosting environment in Bansal. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

With respect to dependent claims, Applicant herein incorporates the arguments presented above with respect to the independent claims from which the claims depend. Furthermore, Applicant submits that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicant respectfully requests withdrawal of this rejection.

VI. CONCLUSION

In addition to the above arguments, Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary.

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,



/ Hunter E. Webb /

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